LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATURE 1st CALLED SESSION - 2005

June 29, 2005

TO: Honorable Steve Ogden, Chair, Senate Committee on Finance

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: **SB5** by Ogden (Relating to certain fiscal matters affecting governmental entities.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB5, As Introduced: a positive impact of $68,295,000 through the biennium ending August 31, 2007.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2006	$36,042,000
2007	$32,253,000
2008	$22,664,000
2009	$22,479,000
2010	$22,276,000

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from *GENERAL REVENUE FUND* 1	Probable Revenue Gain/(Loss) from *New GR-D Tobacco Earnings*	Probable Revenue Gain/(Loss) from *New GR-D Tobacco Endowment Fund*	Probable Revenue Gain/(Loss) from *Tobacco Endowment Funds*
2006	$36,042,000	$0	$0	$0
2007	$32,253,000	$53,955,000	$1,097,085,000	($1,151,040,000)
2008	$22,664,000	$55,574,000	$33,344,000	($88,918,000)
2009	$22,479,000	$57,240,000	$34,345,000	($91,585,000)
2010	$22,276,000	$58,958,000	$35,375,000	($94,333,000)

Fiscal Analysis

Article 1 would require the transfer of certain tobacco settlement proceeds held by institutions of higher education into dedicated general revenue accounts. It would create two dedicated general revenue accounts—an earnings account and a secondary account—for each of 16 Permanent Tobacco Settlement Investment Funds held and administered by or on behalf of institutions of higher education. The bill would require the transfer, at the direction of the Legislature, of amounts approximating the corpus of each permanent fund to the permanent fund's related secondary account. The Comptroller would manage and invest the assets of each secondary account and would periodically transfer the earnings to the related earnings accounts. The bill would require the Comptroller to estimate the permanent funds' future earnings and distributions and provide general revenue transfers to the earnings and secondary accounts as if the accounts were still permanent endowments. The supplemental general revenue transfers could not exceed $65 million in any fiscal year. The bill would require the corpus transfers to be made November 1, 2006. These provisions would take effect September 1, 2005 if the bill receives at least two-thirds of all members' votes; otherwise, it would take effect November 1, 2005.

Article 2 would amend the Government Code to clarify that cash on an overnight basis held by the State Treasury in lieu of securities and obligations does not constitute a deposit of state of public funds requiring collateral.

Article 3 would amend the Property Code to require the Office of Attorney General (OAG) to provide legal services for the collection of uncollected and delinquent obligations. The article would allow the OAG to contract with private debt collectors, and it would allow collectors to charge and retain an amount equal to 30 percent of the total obligation for services rendered.

Article 4 would amend sections of the Tax Code to clarify administrative and technical issues relating to taxes and fees collected by the Comptroller. This article would take effect October 1, 2005 if it receives at least two-thirds of all members' votes; otherwise, it would take effect November 1, 2005.

Article 5 would establish a standard presumptive value for determining the proper amount of motor vehicle sales tax due on certain motor vehicle sales transactions. The Texas Department of Transportation (TxDOT) would determine the presumptive value based on a nationally recognized motor vehicle industry reporting service. TxDOT would maintain information on presumptive values as part of its registration and title system, update the values quarterly, and make the values available to county tax assessor-collectors no later than December 1, 2005.

The standard presumptive value provisions would not apply to even-exchange or gift transactions. If the amount paid in a sales transaction were greater than or equal to the presumptive value, the tax assessor-collector would compute and collect the tax due on the amount paid. If the amount paid in a sales transaction were less than the presumptive value, the tax assessor-collector would compute and collect the motor vehicle sales tax due on the presumptive value, unless the purchaser could establish a retail value by obtaining an appraisal. Appraisals would have to be on a form prescribed by the comptroller, and they would have to be obtained no later than the 20th day after purchase. Automobile dealers could charge a fee, set by the comptroller, for providing a certified appraisal. This article would take effect September 1, 2005 if it receives a vote of two-thirds of each house. Otherwise, the article would take effect November 1, 2005.

Methodology

The estimate of the fiscal impact of **Article 1** is based on the transfer amounts specified in the bill. These provisions would result in an estimated minimum annual loss of investment income of $54 million to the state due to the differing investment authority of the new secondary dedicated accounts compared to the existing investment authority of the permanent funds. Additionally, the permanent funds must be invested in such a manner as to preserve the purchasing power of the fund. In this bill, there is no requirement that the purchasing power of the secondary accounts be preserved. Estimates of account earnings were based on a three percent money market rate whereas the investment gains for the permanent funds were based on an eight percent growth rate. The general revenue supplement was estimated to be in excess of $55 million, based on the estimated earnings differential but less than the $65 million fiscal cap.

Note: The values used in this analysis (indicated in the bill) differ from the transfers that would be required in this article. In addition, these funds would only be available for certification to the extent that they were maintained in the Treasury Pool and on the condition that language were included in the 2006-07 General Appropriations Act (GAA) directing the transfer of balances in these dedicated accounts to Fund 1 pursuant to the provisions in Section 403.095(d) of the Government Code. Any movement of these funds would require a liquidation of investments that could possibly result in a loss in asset value, as well as a loss in investment earnings, related to the dedicated accounts. To the extent it should be necessary to liquidate the accounts, the general revenue loss would be the full $65 million per fiscal year as allowed by the bill.

The Comptroller estimates the provisions in **Article 2** would result in a $5 million annual revenue gain to the General Revenue Fund.

Article 3 would amend Chapter 2107 and 2254of the Government Code relating to contracts for the outside collection of agency delinquencies. The Comptroller of Public Accounts reports that the fiscal impact of Article 3 is estimated to be a gain of $2 million in fiscal year 2006 and $12.6 million in fiscal year 2007.

Article 4 would have no significant fiscal impact.

The Comptroller provided the **Article 5** estimates relating to the presumptive value of motor vehicles. They are based primarily on estimates of sales of motor vehicles between individuals. The Comptroller estimated that about one-half of the 1.2 million qualifying sales each year are under-reported by approximately 28 percent. Estimated revenues for fiscal year 2006 were adjusted for implementation lags.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General, 304 Comptroller of Public Accounts

LBB Staff: JOB, SD, JI